

# ***Topsfield Conservation Commission***

## **Minutes for August 22, 2007**

*Topsfield Library Conference Room*

Present: Walter Harmer, Chair, Wade Goldman, John Olcott, Ralph Stump, Tom Warren, John McArdle, and Lana Spillman, Administrator.

Absent: None

Harmer called the meeting to order at 7:25 p.m. with a quorum present.

*Note: These minutes were transcribed by Hilary Hafner.*

### **HEARINGS:**

**Continuation, NoI 307- 0579: 76 Campmeeting Road,** (Map 20, Lot 39) Jonathan Peabody/Philley & Peabody, Inc. Harmer suggested that the soil on the site be stockpiled to prevent erosion from the top of the bridge. After a brief discussion, Stump moved to close the hearing and issue an Order of Conditions (OoC) with Special Conditions under the Act and Bylaw. The motion was seconded and passed unanimously.

**Continuation NoI 307- \_\_\_\_: Asbury Street Bridge and Rowley Bridge Road Bridge,** (Maps 21 and 55) Town of Topsfield/Richard Benevento of Jacobs, Edwards, & Kelcey. The applicants submitted a written request to continue. Stump moved to grant the request and continue the hearing under the Act and the Bylaw to September 12, 2007. The motion was seconded and passed unanimously.

**Continuation NoI 307-0587: 417 Boston Street,** (Map 12, Lot 32) Surrey Development Corporation/Neve-Morin Group, Inc. The applicants submitted a written request to continue. Stump moved to grant the request and continue the hearing under the Act and the Bylaw to September 12, 2007. The motion was seconded and passed unanimously. Spillman reported that NHESP, "has determined that this project as currently proposed, has the potential to adversely affect actual Resource Area habitat of the Blue-spotted Salamander... We request that a rare species habitat assessment be conducted by a qualified wildlife biologist in order to identify and map habitat features relevant to the Blue-spotted Salamander..."

**Continuation ANRAD 307-0591: 7 Bare Hill Road,** (Map 17, Lot 40), Timothy Perkins/Hancock Associates. John Dick of Hancock Associates was there to present. He went over the changes on the latest Plan (received on August 9, 2007, but not dated.) TCC asked that a new engineer's stamp, the revision date, and the correct flag numbers all be added to the plan. Stump moved to close the hearing and issue an Order of Resource Area Delineation under the Act and the Bylaw contingent on the plan being submitted with the above changes by the next Monday. The motion was seconded and passed unanimously.

**NoI 307-0594: 116 Boston Street,** (Map 69, Lot 13), Cheever Realty Trust/Hayes Engineering. The proposal is to install a replacement septic system within Buffer Zone. Gordie Rogerson of Hayes Engineering was there to present. Proof of abutter notification was submitted and Olcott read the legal ad. Mr. Rogerson described the wetlands on the site: one is isolated and the other comes from under Route 1. He reported that he has done extensive testing across the site and has found only one area suitable for the septic systems. The only other possible location would be on a knoll on the other side of the low area. The Board of Health has approved this plan. A site visit was scheduled for Wednesday, August 29 at 5:30 p.m. Goldman moved to continue the hearing under the Act and the Bylaw to September 12, 2007. The motion was seconded and passed unanimously.

**ANRAD 307-\_\_\_ : 49 Rowley Road, (Map 6, Lot 13)** Jensen Development Corp./Hancock Associates. This application is for review of Resource Area boundaries on the property. John Dick presented. Proof of abutter notification was submitted. Goldman read the legal ad. Mr. Dick discussed the wetlands and the wetland system on the property and adjoining property. There is a large vernal pool near Rowley Road and a series of vernal pools along the Intermittent Stream at the rear of the property. The revised plan shows adjusted locations of two flags. The 100-year floodplain is shown on the plan and the entrance of the driveway would be widened to accommodate heavy equipment. Referring to the DEP online comment, the Commission requested Resource Area data sheets be submitted. Since DEP has not yet sent its comment sheet and since the Commission has not received a copy of the latest plan, Warren moved to continue the hearing under the Act and the Bylaw to September 12, 2007 in order to receive the necessary information. The motion was seconded and passed unanimously. A joint site visit for both of the filings for 49 Rowley Road was scheduled for Thursday, August 30, at 5:30 p.m.

**NoI 307-\_\_\_ : 49 Rowley Road, (Map 6, Lot 13)** Jensen Development Corp./Hancock Associates. The proposed project is the construction of a driveway within Buffer Zone of Bordering Vegetated Wetlands and several Vernal Pools “to provide access to a proposed home to be constructed outside of the Buffer Zone.” Proof of abutter notification was submitted. Olcott read the legal ad. John Dick of Hancock Associates presented. He went over the details of the proposal. A recharge trench is proposed the full length of the edge of the driveway up the hill. The Conservation Commission discussed details of the proposal and asked Mr. Dick to look into altering the configuration of the house and possibly adding another switchback to the driveway. Jason Coy, the engineer, was present and went over an alternative plan. Spillman suggested they find out whether a ZBA review is needed for possible work in 100-year floodplain and suggested they work on a construction phasing detail. Harmer asked Mr. Dick to review the flags in the areas where the proposed driveway would be closest to the Resource Areas. Stump moved to continue the hearing under the Act and the Bylaw to September 12, 2007. The motion was seconded and passed unanimously. A site visit was scheduled for August 30<sup>th</sup> at 5:30 p.m.

**AbNoI 307-\_\_\_ : 47 Rowley Road, (Map 6, Lot 14)** Carl and Beverly Nelson. The proposal is to replace an existing stone patio with a slightly larger home addition, about 38 feet from a large, very active Vernal Pool. Olcott read the legal ad. Proof of abutter notification was submitted. Carl Nelson was present and he explained the proposed project. TCC discussed the project with him and asked him to look into building the addition on the site of the current attached garage, relocating the garage farther from the Vernal Pool, or to consider other alternatives. Mr. Nelson said he would look into this. A site visit was scheduled for Thursday, August 30, 2007, at 5:15 p.m. Stump moved to continue the hearing to September 12, 2007, under the Act and the Bylaw in order to receive the DEP comment sheet with file number and to make the site visit. The motion was seconded and passed unanimously.

**ANRAD 307-\_\_\_ : 12 Boston Street, (Map 81, Lot 1)** Alan Berry/Beals Associates, Inc. Larry Beals and the owner, Alan Berry, were present. Proof of abutter notification was submitted and Olcott read the legal ad. Mr. Beals explained the location and orientation of the property, and went over the Existing Conditions Plan that he created when he was hired by Boston College to map the wetlands on the site. After an initial discussion about the Resource Areas on the site, a site visit was scheduled for Thursday, September 6, at 5:00 p.m. Since the site is large, at least two site visits would be needed. Goldman moved to continue the hearing under the Act and the Bylaw to September 12, 2007 in order to have the site visit. The motion was seconded and passed unanimously.

## **MEETINGS:**

**RDA, 2007-08: 1 Morningside Drive, (Map 65, Lot 23)** Lori and James Byman. The proposal is to remove numerous large trees and replace them with small trees in the Buffer Zone to Intermittent

Streams. Jim Byman was present and submitted proof of abutter notification. Olcott read the legal ad. Spillman commented that there was not a sketch and a sketch is needed to close the meeting. Mr. Byman explained the proposed project. The Commission discussed the particulars with him, stating that replacement trees would need to be more than 6 feet in height, and requested a sketch with locations of trees to be removed shown, along with a list of types, sizes, and locations where trees would be planted. Warren moved to continue the meeting until to September 12, 2007 in order to receive the requested information. The motion was seconded and passed unanimously.

**RDA, 2007-09: 42 Washington Street, (Map 32, Lot 133)** Stephanie and Matthew Maloney. This is a court-ordered after-the-fact filing for the clearing of numerous mature trees and saplings in the Buffer Zone of a Bordering Vegetated Wetland containing an Intermittent Stream. Proof of abutter notification was submitted previously. Olcott read the legal ad. Warren moved to close the meeting and issue a Negative Determination with Special Conditions under the Act and the Bylaw. The motion was seconded and passed unanimously.

**RDA 2007-10: 21 Kinsman Lane, (Map 31, Lot 76)** Derek Gustafson/Horne Construction Corporation. The proposal is to replace an existing porch with a larger 3-season room and deck. Proof of abutter notification was submitted and Olcott read the legal ad. Jeff Horne, representing, discussed the proposed project. Mr. Gustafson submitted a check for \$42 made out to the Town of Topsfield to cover the Bylaw filing fee he still owed. The Commission told Mr. Horne that the wetland would need to have debris and other fill removed before construction could begin. Goldman moved to close the meeting and issue a Negative Determination with Conditions, with the stipulation that there be a pre-construction meeting primarily for Commission/Administrator review and approval of the removal of junk from the wetland. The motion was seconded and passed unanimously.

#### **UPDATE:**

**OoCs 307-0422: 44 Prospect Street, (Map 40, Lot 95) – Buffer Zone Restoration Planting Plan.** Mr. and Mrs. Taylor were present. Commissioners had received a copy of an E-mail message with requests from abutter John Ryan; the E-mail had been shared with the Taylors through their representative. Greg Hochmuth, representing, summarized the status of the project and presented a Buffer Zone planting plan, one of the conditions of the Orders of Conditions. Harmer mentioned the concerns of abutter John Ryan and Mr. Hochmuth responded that it is up to the Ryans to extend the riprap area, if that is their wish. Harmer asked that run-off onto the Ryan's property be directed to where it currently, naturally flows; it should not be allowed to flow to a new spot. There was discussion about how to revegetate the area where an estimated at least 80 to 100 mature trees were cut, and how to restore lost Buffer Zone functions and values while maintaining pastureland for horses. Spillman expressed concern that the presented proposal would not sufficiently restore lost values and functions of the Buffer Zone, especially where there were mature trees removed, and suggested that there should be more plantings in the area of the large detention pond. Harmer stated that the proposed plantings would restore vegetation. Scott Taylor explained that basically everything would be planted with a pasture seed mix and Maurine Taylor added that she would like to plant more trees later. Hochmuth stated that, considering maintenance under the Operation and Maintenance Plan, if they planted the ponds, it would be difficult to keep them as designed. The consensus of the Commission was that the proposed trees could be planted as proposed now and more trees would be planted in the long-term. Maurine suggested that they could work with what they have and add trees in three more areas. Harmer asked Mr. Hochmuth to address the problem of erosion coming off the driveway. Harmer summarized: three or four more trees than proposed are to be planted now, not in a woody area, but just inside the grassed area, and the driveway should be addressed separately. Spillman requested and Mr. Hochmuth agreed to submit a revised plan for the file.

**REQUEST:**

**CoC 307-0474: 35 Stagecoach Road,** (Map 11, Lot 14) Laura and Gerard Arcari. Spillman made two site visits on Tuesday, August 21. The Conservation posts now are stabilized. Warren moved to issue a Certificate of Compliance with Continuing Conditions under the Act and the Bylaw. The motion was seconded and passed unanimously.

**UPDATE:**

**Violation Notice & Bylaw Ticket #2007-07: 35 Stagecoach Road,** (Map 11, Lot 14) Laura and Gerard Arcari – appeal of fine and update. The work on this site was completed without recording the Order of Conditions, with no DEP sign in place, and with no pre-activity meeting. Since given notice, however, the Arcaris have brought the property into compliance for a Certificate of Compliance. Mr. Arcari proposed that his wife, Laura, could prepare an owner-friendly checklist for those applying for Conservation Commission permits in lieu of owing at least part of the \$500 fine. Harmer suggested that the Commission could accept that offer and reduce the fine to \$50. Mr. Arcari agreed. Stump moved to do so. The motion was seconded and passed unanimously. Harmer asked them to come in and talk to TCC next week and to have the work for the permits done in no more than two months.

**REQUESTS:**

**Emergency Certification #07-05, 86 Salem Road,** (Map 64, Lot 16), MIT Real Estate Foundation, Inc./ENPRO Services, Inc. – ratification. Harmer explained the history of the site, explaining that a Notice of Intent was submitted on Monday, August 20, 2007, the same day that an Emergency Certification for the removal of oil-contaminated soil was issued. Goldman moved to ratify the E.C. The motion was seconded and passed unanimously.

**Continuation CoC 307-0513: 32 Brookside Road,** (Map 26, Lot 39), Brenda Garabegian. Spillman reported that one conservation post broke and was lying on the ground. Stump moved to deny the Certificate of Compliance at this time with the understanding that if the applicants re-apply within 21 days they would not have to pay the fee again. The motion was seconded and passed unanimously.

**Continuation CoC 307-0540: 96 Parsonage Lane,** (Map 17, Lot 5) Joseph Schraffa, Jr. This is the CoC for the septic system replacement. Spillman reported that the Commission has not been informed that the OoC-required posts have been installed. Stump moved to deny the Certificate of Compliance at this time with the understanding that if the applicants re-apply within 21 days they would not have to pay the fee again. The motion was seconded and passed unanimously.

**Continuation CoC 307-0466: 35 Prospect Street,** (Map 40, Lot 4), Marco and Andrea Lara. Spillman reported that the Commission is still waiting for an Engineer's letter and for the Conservation posts to be installed. Stump moved to deny the Certificate of Compliance at this time with the understanding that if the applicants re-apply within 21 days they would not have to pay the fee again. The motion was seconded and passed unanimously.

**CoC 307-0567: 31 Wildes Street,** (Map 13, Lot 16), Heidi and Kevin Fox. Spillman made a site visit on Monday, August 20, 2007. The Conservation Posts are not stable and need to be re-installed. Warren moved to continue to the meeting on September 12<sup>th</sup> in order to allow the homeowners time to stabilize the posts. The motion was seconded and passed unanimously.

**CoC 307-0570: 73 Howlett Street,** (Map 33, Lot 18) Herman A. Schulte. No action – a site visit is needed.

**CoC 307-0568: 75 Howlett Street,** (Map 33, Lot 17) Robert P. Marchand. No action – a site visit is needed.

**CoC 307-0556: 10 Gail Circle**, (Map 40, Lot 20) Lori Thurber. Spillman made a site visit on Monday, August 20, 2007. Conservation Posts need to be installed and planted grass seed needs to grow to stabilize bare soil areas. Warren moved to continue to the meeting on September 12<sup>th</sup> in order to allow these items to be completed. The motion was seconded and passed unanimously.

**OLD BUSINESS, UPDATES, & MISCELLANEOUS:**

**120 High Street**, (Map 49, Lot 56), Hickory Beech Realty Trust/Joseph Falzone, Trustee – Planting of native species and control of invasive plants update, violations at Lot 23, work completion update, and request for final BSC inspection. The Commission discussed whether or not to sign to the proposed Conservation Restriction. Warren made a motion to submit this draft for review by a lawyer. The motion was seconded and passed unanimously.

**Prospect Hill/Gail Street Drainage:** John Ingalls of 11 Prospect Street remains concerned about water flowing onto his property. Harmer said he would address this in a proposal that he is bringing to the Topsfield Open Land Trust for discussion.

**Minutes Secretary, Funding:** Spillman reported that there is only one applicant. She would be able to attend only one Wednesday meeting a month and prefers to write minutes from recordings and notes. Spillman sent an E-mail Tuesday morning, trying to set up an interview with Jeannine Dion.

**Additional Intern Hours:** Spillman reported that since the original approval was for two Interns, up to \$450 each, Town Administrator Ginna Wilder, as “Chief Personnel Officer,” has approved up to \$900 for the summer for Joanna Larson. Goldman moved to increase the Intern hours and to pay her from the Bylaw Revolving Fund. The motion was seconded and passed unanimously.

**ENFORCEMENT, APPEAL REPORTS, UPDATES:**

**270 Boston Street**, (Map 41, Lot 87) Bear Albright. A site visit was scheduled for Tuesday, August 28, at 6:00 p.m.

**Violation Notice & Ticket #2007-04: 5 Fox Run Road**, (Map 47, Lot 28), Jeffrey and Lynn Evaul – update, appeal of fine. Harmer made a site visit in July. Mr. Evaul is to call when the additional cleanup is completed.

**Enforcement Order, Violation Notice & Bylaw Ticket #2007-03: 43 Cross Street**, (Map 62, Lot 2), Christopher Nash – update. Spillman reported that the Commission has received additional complaints from an abutter; Harmer made a brief site visit in July; and District Court date is set for September 10<sup>th</sup> at 11 a.m.

**3<sup>rd</sup> Amended Enforcement Order: 64 Wenham Road & 255 High Street**, (Map 71, Lot 22 & Map 65, Lot 1), Stephen Bernstein. There was no discussion.

**Enforcement Order: 50 Prospect Street**, (Map 48, Lot 12), John Molloy/Hancock Associates – update. No update was given.

**Amended Enforcement Order, OoC 307-0462, 39 Prospect Street**, (Map 40, Lot 97), Eliot Sherr & Mary Ellen Gardiepy – update. No update was given.

**Violation Notice & Ticket #2006-18: 42 Washington Street**, (Map 32, Lot 133), Matthew and Stephanie Maloney – update. Spillman reported that an RDA was filed (see above) and the \$200 Bylaw fine was paid to the District Court.

**Amended Enforcement Order, Violation Notice & Ticket #2006-20: 221 Washington Street,** (Map 47, Lot 2), Andrzej Galka – update. A Notice of Intent was filed, but the Conservation office has not heard that the Bylaw fine was paid.

**3<sup>rd</sup> Amended Enforcement Order: 64 Wenham Road & 255 High Street,** (Map 71, Lot 22 & Map 65, Lot 1), Stephen Bernstein. No Executive Session was held.

**ADMINISTRATOR’S REPORT:**

**Welcome new Commissioner, John McArdle.**

**Statehouse Conservation Commission Day:** Scheduled for September 19, 2007.

**Town Flood concerns:** committee, update. No update was given.

**Discussion About Recording Procedures for Meetings:** the meeting ended before this question was discussed.

**Summer Intern Update:** the summer intern has been purging files, assisting with the certification of a Vernal Pool on East Street, updating files for Conservation properties, preparing instructions for the digital recorder, and performing numerous secretarial and clerical tasks.

**MINUTES:**

Goldman moved to approve the minutes of **June 27, 2007**, and **July 11, 2007**, as amended, with minor edits provided by Harmer. The motion was seconded and passed unanimously.

At 11:07 p.m. Stump moved to adjourn. The motion was seconded and passed unanimously.

Respectfully submitted,

Lana Spillman  
Conservation Administrator

*Approved at the TCC meeting on September 26, 2007*